

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

DANNY LEE HANNERS,

Plaintiff,

VS.

Warden CARL HUMPHRIES, et. al.

Defendants.

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NO. 5:12-CV-245-MTT-MSH

ORDER ON MOTION TO APPEAL *IN FORMA PAUPERIS*

Plaintiff **DANNY LEE HANNERS**, an inmate currently confined at the Augusta State Medical Prison, filed a *pro se* civil rights complaint under 42 U.S.C. § 1983 and moved for leave to proceed *in forma pauperis*. After conducting a preliminary view of his Complaint, this Court found that Plaintiff's allegations failed to state a viable claim under § 1983. His Complaint was accordingly dismissed without prejudice, see 28 U.S.C. § 1915A; and judgment was entered on November 2, 2012..

Plaintiff has now filed a Motion to Proceed *in forma pauperis* on Appeal (ECF No. 22) from this Court's Order (ECF No. 16) dismissing his Complaint. In the Court's best judgment, an appeal from this Order cannot be taken in good faith. Plaintiff's Motion to Proceed *in forma pauperis* on appeal is accordingly **DENIED**. See 28 U.S.C. § 1915(a)(3) ("An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith."); Fed. R. App. P. 24(a)(3) ("A party who was permitted to proceed in forma pauperis in the district-court action . . . may proceed on appeal *in forma pauperis* . . . unless . . . the district court . . . certifies that the appeal is

not taken in good faith”).

If Plaintiff wishes to proceed with his appeal, he must pay the entire \$ 455.00 appellate filing fee. Because Plaintiff has stated that he cannot pay the \$ 455.00 immediately, he must pay using the partial payment plan described under 28 U.S.C. § 1915(b). Pursuant to § 1915(b), the prison account custodian where Plaintiff is incarcerated shall cause to be remitted to the Clerk of this Court monthly payments of 20% of the preceding month's income credited to Plaintiff's account until the \$ 455.00 appellate filing fee has been paid in full. Twenty percent of any deposits into the prisoner's account shall be withheld by the prison account custodian who, on a monthly basis, shall forward the amount withheld from the prisoner's account to the Clerk of this Court each time the amount in the account exceeds \$ 10.00 until the total filing fee of \$455.00 has been paid. Checks should be made payable to “Clerk, U.S. District Court.”

The Clerk of Court shall mail a copy of this Order to the custodian of the prison in which Plaintiff is presently incarcerated.

Any further requests to proceed *in forma pauperis* on appeal should be directed, on motion, to the United States Court of Appeals for the Eleventh Circuit, in accordance with Rule 24 of the Federal Rules of Appellate Procedure.

SO ORDERED this 22nd day of January, 2013

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT

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